

U.S. CONSUMER PRODUCT SAFETY COMMISSION

4330 EAST WEST HIGHWAY BETHESDA, MARYLAND 20814-4408

Record of Commission Action
Commissioners Voting by Ballot*

Commissioners Voting: Acting Chairman Nancy A. Nord

Commissioner Thomas H. Moore

ITEM:

Request from the Bicycle Product Suppliers Association ("BPSA") for Exclusion from Lead Content Limits under Section 101(b)(1) of the Consumer Product Safety Improvements Act ("CPSIA") (Briefing package dated May 6, 2009, OS No. 4098)

DECISION:

The Commission voted unanimously (2-0) to accept staff's initial recommendation and deny BPSA's request for exclusion from the lead content limits under Section 101(b)(1) of the CPSIA and direct staff to draft and submit to the Commission for ballot vote a Federal Register notice staying enforcement with regard to the specified lead level as it pertains to certain parts of youth bicycles (including related products such as jogger strollers and bicycle trailers) manufactured before February 10, 2009, and to similar products made on or after that date through April 30, 2011, given the safety concerns raised by the industry's Petition for Exclusion.

Acting Chairman Nord issued the attached statement with her vote.

For the Commission:

Todd A. Stevenson

Secretary

^{*} Ballot vote due May 12, 2009



U.S. CONSUMER PRODUCT SAFETY COMMISSION 4330 EAST WEST HIGHWAY BETHESDA, MD 20814

STATEMENT OF ACTING CHAIRMAN NANCY NORD ON THE EXCLUSION REQUEST FROM THE BICYCLE PRODUCTS SUPPLIERS ASSOCIATION May 12, 2009

Today the Commission is voting to deny the petition for an exclusion from the lead provisions of the Consumer Product Safety Improvements Act, this time with respect to children's bicycles and related products. However, because both commissioners recognize the problems of applying the law to these categories of products, we are directing staff to develop an enforcement stay for approximately two years, until April 30, 2011.

We are compelled to deny the petition because the language of the statute does not give us the flexibility to do otherwise, even though our staff does not believe that lead exposure from using bicycles and related products presents a risk that they would recommend the Commission regulate. The risk assessment methods traditionally used by the Commission in evaluating exposure to lead are no longer available to us under the CPSIA.

Nevertheless, we also recognize, as we did when presented with a similar petition filed by the All Terrain Vehicle industry, that safety requires the presence of some lead in the metal used in the product to insure structural integrity. I am also mindful of the staff's findings that the contact children may have with the parts of the products that contain lead is not extensive and would not present a risk as we have traditionally understood the term—that is, would not increase blood lead levels in any measurable way. Presented with the dilemma of inflexibility in the law vs the need for regulatory action that recognizes safety and good sense considerations, we are opting to stay enforcement.

This course of action is becoming all too frequent for the CPSC. It is needed to avoid market disruptions and to protect consumers. However, it is not the optimal way to implement a statute.